IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7438 OF 2005
IN
CRIMINAL APPEAL NO.1049 OF 2005

Mohamed Ahmad Iqbal Pathan. ..Applicant.

V/s.

State of Maharashtra. ..Respondent.

Mr.Gonesh Gole for applicant.

Mr.Rajesh More, APP for State.

CORAM: A.M.KHANWILKAR,J
DATE : DECEMBER 7, 2005.

P.C. :

1. Heard counsel for the parties.

2. Appeal against the order of conviction has been admitted by separate order. Prima facie case has been made out. I find force in the argument canvassed on behalf of the applicant that the identification parade will have to be discarded for more than one reason. Reliance is placed on the evidence of prosecution witness which is referred to at pages 29 and 30 of the paper book in paragraph-9 of the impugned Judgment. Prima facie, the identification parade conducted in the present case is in breach of the procedure prescribed under the Criminal Manual. Reliance is rightly placed on the decision of the Division Bench of this court in the

case of **Ramchandran B. Gupta Vs. State of Maharashtra reported in 1995 CRI.L.J.4048** to support this submission. In my opinion, therefore, as the sentence is only of seven years and the appeal is admitted; besides applicant has already undergone more than one year of imprisonment, applicant deserves to be released on bail as presently appeals prior to year 1995 are still pending for hearing. The applicant is therefore, ordered to be released on bail by imposing strict condition as follows:

(A) Applicant to furnish bail bond in the sum of Rs.50,000/-(Rupees fifty thousand only) with one or two local sureties in like amount.

(B) The applicant shall report to the concerned police station twice in a month on first and third Monday of every English Calender Month between 10 a.m. to 12 noon.

(C) The applicant shall surrender passport with the concerned police station. In case, he does not possess any passport, he shall file affidavit disclosing that position, as condition for bail.

3. Application disposed of in the above terms.